

REMARKS

Status of Claims

The Office Action mailed February 26, 2007 has been reviewed and the comments of the Patent and Trademark Office have been considered. Claims 1-28 were pending in the application. Claims 1, 10, 22, 25 and 26 have been amended, and claim 24 has been cancelled. Support for these amendments can be found on page 10, paragraphs 2-6 and page 9, paragraphs 3-4. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, are presented, with an appropriate defined status identifier. Therefore, claims 1-23 and 25-28 are pending in the application.

Request for Acknowledgement of Claim for Priority:

The Patent and Trademark Office is respectfully requested to acknowledge Applicant's claim for convention priority that was filed on February 25, 2002, in which a certified copy of the priority document was also submitted to the Patent and Trademark Office.

35 U.S.C. § 112 Rejections

Claims 1-9 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. The claims have been amended to address this issue. Thus, reconsideration and withdrawal of the rejection is respectfully requested.

Prior Art Rejections

In the Office Action, claims 24 and 25 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Bandera et al. (hereinafter "Bandera"). Claims 1-23 and 26-28 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Bandera in view of Boyd. Applicants respectfully traverse these rejections for at least the following reasons.

Claims 24 and 25 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Bandera. Claim 24 has been cancelled without prejudice.

Independent Claim 25 has been amended to recite an analysis terminal that returns analysis results "wherein the analysis results are based upon analysis items and analysis conditions that are input from the analysis terminal". There is no teaching in Bandera of utilizing analysis items and analysis conditions in determining analysis results. In fact, the

word “analysis” does not even appear in the disclosure of Bandera. Thus, it is respectfully submitted that Bandera does not disclose all of the features of the independent claim. If this rejection is maintained, the examiner is respectfully requested to point out where this feature is disclosed in Bandera.

Claims 1-23 and 26-28 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Bandera in view of Boyd. Independent claim 1, which recites a mobile marketing server which takes into account “positional information of the processing target user terminal and amount of time at which said processing target user terminal existed at said position”. Similar language is added for remaining independent claims 10, 22 and 26. This is in stark contrast to Bandera, as noted above, which only takes into account only location and/or time of day, rather than amount of time spent at the location (column 2, lines 47-49; column 2, lines 58-61; column 3, lines 5-12; column 3, lines 31-34). There is no teaching or suggestion in Bandera that the promotion or advertisement delivered to the user terminal is based upon amount of time spent at the location of the user terminal.

Boyd also does not mention any teaching or disclosure that the promotion or advertisement delivered to the user terminal is based upon amount of time spent at the location of the user terminal. Boyd teaches that the system may apply a scheduling criteria to select ads based on criterion such as “random selection; selection based on time of day and/or day of week; location of the device; selection based upon the number of times that an ad has been displayed in a specific time frame and/or a “least recently viewed” algorithm.” (column 9, lines 25-31). Boyd explicitly states those criterion utilized in his system; amount of time spent at a location is not one of those criterion. Nowhere else in the disclosure of Boyd is there any teaching that the amount of time spent at a location is factored into the ad that is sent to a user terminal.

As shown, neither Bandera nor Boyd teaches or discloses all of the features of the independent claim, specifically failing to teach a mobile marketing server which takes into account “positional information of the processing target user terminal and amount of time at which said processing target user terminal existed at said position”. Thus, Bandera and Boyd, either alone or in any combination thereof, would also fail to teach all of the limitations of the independent claims. If this rejection is maintained, the examiner is respectfully requested to point out where this feature are disclosed in either Bandera or Boyd..

The dependent claims are also patentable for at least the same reasons as the independent claims on which they ultimately depend. In addition, they recite additional patentable features when considered as a whole. As mentioned above, Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

Conclusion

In view of the foregoing amendments and remarks, Applicants believe that the application is now in condition for allowance. An indication of the same is respectfully requested. If there are any questions regarding the application, the examiner is invited to contact the undersigned attorney at the local telephone number below.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorize payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date May 24, 2007

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 945-6014
Facsimile: (202) 672-5399

By George C. Beck Reg. No. 43,438
George C. Beck
Attorney for Applicant
Registration No. 38,072